

COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C §§ 1983

Name Brown II William Odessa  
 (Last) William (First) Odessa (Initial)

Prisoner Number K93463

Institutional Address  Hwy 101 P.O. Box 686, Soledad CA  
 93960-0689, Correctional Training Facility - (CTF)

NOV 27 2007  
 RICHARD W. WICKING  
 CLERK, U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIAWilliam Odessa Brown II

(Enter the full name of plaintiff in this action.)

CV

07

Case No. \_\_\_\_\_  
 (To be provided by the clerk of court)

VS.

Correctional Training Facility  
 et al.(See Attached, Named Defendants)

(Enter the full name of the defendant(s) in this action)

COMPLAINT UNDER THE  
CIVIL RIGHTS ACT,  
42 U.S.C §§ 1983

(PR)

E-filing

[All questions on this complaint form must be answered in order for your action to proceed.]

I. Exhaustion of Administrative Remedies

[Note: You must exhaust your administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.]

A. Place of present confinement Correctional Training Facility(CTF)

B. Is there a grievance procedure in this institution?

YES  NO 

C. Did you present the facts in your complaint for review through the grievance procedure?

YES  NO 

D. If your answer is YES, list the appeal number and the date and result of the appeal at

each level of review. If you did not pursue a certain level of appeal, explain why.

1. Informal appeal By Pass

2. First formal level BY Pass

3. Second formal level CTF-OT-00555<sup>(S)</sup>

Denied

4. Third formal level Stated Second level Response  
sufficient administrative Appeals.

E. Is the last level to which you appealed the highest level of appeal available to you?

YES  NO

F. If you did not present your claim for review through the grievance procedure, explain why.

II. Parties

A. Write your name and your present address. Do the same for additional plaintiffs, if any.

William Brown

See Attached pg # 243

B. Write the full name of each defendant, his or her official position, and his or her place of employment.

See Attached pg # 243

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III. Statement of Claim

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State here as briefly as possible the facts of your case. Be sure to describe how each defendant is involved and to include dates, when possible. Do not give any legal arguments or cite any cases or statutes. If you have more than one claim, each claim should be set forth in a separate numbered paragraph.

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IV. Relief

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Your complaint cannot go forward unless you request specific relief. State briefly exactly what you want the court to do for you. Make no legal arguments; cite no cases or statutes.

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*See Attached pg #'s 4-21*

*See Attached pg # 22*

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 19 day of Nov, 2007

  
(Plaintiff's signature)

1 William Brown II

2 K93463 DWZ41

3 Hwy 101, P.O. Box 689

4 Soledad, CA 93960-0689

5 Petitioner, In Pro Per

6 United States District Court  
7 Northern District of California

8 William Brown, II,

9 Petitioner,

10 US.

11 Case No.

12 Correctional Training  
13 Facilities et al., in their  
14 official and/or individual  
15 capacities, (See attached for  
16 Named defendants),

17 Defendants.

18 Civil Rights Complaint  
19 With A Jury Demand

20 This is a 81983 action filed by William Brown, a  
21 State Prisoner, alleging violation of his constitutional  
22 rights and seeking money damages, declaratory judgment,  
23 and injunctive relief. The plaintiff requests a trial  
24 by jury.

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1 Parties to the Action  
2

3 William Odessa Brown II  
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5 Petitioner  
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7 Defendants listed  
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9  
10 E. Stephens

J. Sarelli

C. Noll

11  
12 G. A. Ortiz

P. G. Dennis

G. M. Gonzales

13  
14 A. Bernal

J. R. Sokas

D. N. Garcia

15  
16 D. G. Metcalf

D. N. McCall

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## Jurisdiction

This is a Civil Rights Action under 42 USC § 1983. This Court has jurisdiction under 28 USC § 1333. Plaintiff also invokes the pendant jurisdiction of this Court.

## Parties

Petitioner William Brown II is presently incarcerated at Correctional Training Facility (CTF), state prison, in Soledad, CA, #93960-0689 and his address is Hwy 101, PO Box 689, K-93463 CDC#.

Defendants are all employed at (CTF), Hwy 101, P.O. Box 686, Saticoy, CA 93960-0686.

Correctional Lieutenant (Lt), E. Stephens; Associate Warden, G. A. Ortiz; Facility Captain, J. Sareli; Chief Deputy Warden, C. Noll; Correctional Counselor II, P. G. Dennis; Correctional Officer, G. M. Gonzales; Correctional Sergeant, A. Bernal; Correctional Officer, J. R. Salas; Correctional Officer, D. N. Garcia; and Correctional Lieutenant, D. G. Metcalf; and Correctional Lieutenant, D. N. McCall.

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2                   Statement of Facts  
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8                   On 19 Dec 2006, petitioner was issued an Rule Violation  
9 Report, (RVR) log # VI-12-06-025 for the specific acts of  
10 "Delaying A Peace Officer In The Performance of Their Duties."  
11 However that RVR was reduced to "Disobeying a Direct  
12 order."

13                   Petitioner filed an appeal challenging the fact that  
14 Staff put him in a ~~No~~ win situation of policy and a  
15 Direct order, that appeal was denied accordingly. Upon  
16 this denial, petitioner filed with the Chief of inmate  
17 Appeals, petitioner proceeded with his complaint to Monterey  
18 Superior Court, HC 5775, on a Petition for Writ of ~~Habeas~~  
19 Habeas Corpus.

20                   On the 16 Aug 2007 the lower court initiated an order  
21 for the Attorney General, (A.G.) to file an Informal Response,  
22 that response was submitted on 14 Sept 2007 and due to  
23 the paucity of evidence the Court issued an Order to  
24 Show Cause, that the petitioner was improperly found  
25 guilty of disobeying a direct order, 1 Nov 2007.

26                   However, petitioner tried to resolve this issue at  
27 his RVR Hearing, but the Senior Hearing Officer (SHO), Lt. E.  
28 Stephens failed to allow the petitioner an adequate

1 and fair hearing. The SHO did things his way during  
 2 the petitioners Hearing, thus violating his rights to due  
 3 process to a fair and impartial Hearing. Lt Stephens  
 4 refused to follow policy and procedures when it  
 5 came to the Appellants Hearing. The Lt was bias in his  
 6 actions in finding the plaintiff guilty of Disobeying  
 7 a direct order.

8 The actions of the Lt. was not only to punish the  
 9 Plaintiff but to retaliate against him in order to protect  
 10 his fellow staff members. The Lt. (Stephens) just  
 11 could not dismiss the RUR he had to find the plaintiff  
 12 guilty of something, when he knew that the plaintiff was  
 13 deliberately put in a No win situation of Disobeying  
 14 Orders and in conflict with policy of having his ID.  
 15

16 Furthermore, G.A. Ortiz, Associate Warden, Chief  
 17 Disciplinary Officer (CDO) and Facility Captain J. <sup>Saceli</sup>  
 18 further condoned the actions of the SHO and failed to  
 19 correct the problem, thus adding to the retaliation and  
 20 denial of Due Process to a fair and impartial hearing.  
 21 In so far, the Appellants appeal was also denied  
 22 to still add to the punishment or satisfactory  
 23 justification of the issue. The Department flat out  
 24 refused to adjudicate this issue. Once the SHO issued  
 25 his bias decision with regard to policies or the ~~other~~  
 26

1 Appellants rights, that decision was final regardless  
 2 of the petitioners rights to Appeal. The Department  
 3 flatout refused the appellant to prove his actions or  
 4 defend against the allegations that were alleged.  
 5

6 On the 14th Sept 2007 the Attorney General for the  
 7 matter of Habeas Corpus, HC 5775, states "that the petitioner  
 8 didn't lose any credits affecting his incarceration,"  
 9 the petitioner was given four (4) points to his Classification  
 10 Score Sheet, in which contributed to the increase of  
 11 Custody levels, on 1 Nov 2007 Committee Review.  
 12

13 The appellant was found guilty of an Administrative  
 14 Rule Violation, in which no points can be assess.  
 15 Therefore the petitioner is still be punished for this  
 16 RVR even when the 115 does not meet protocol of the  
 17 California Code of Regulations, (CCR).

18 Deputy Warden, Chief, C. Noll and P.G. Dennis, CCR  
 19 deliberately denied the plaintiff an adequate appeal  
 20 process in adjudication of the (RVR), Senior Staff flatout  
 21 Denied the appellants ~~appeal~~ appeal with I. He or No regards  
 22 to the petitioners rights to argue or defend against  
 23 the allegations, their actions were retaliatory, vindictive  
 24 and deliberately-indifferent and wanton to the plaintiffs  
 25 Constitutional Rights, including the's Deputy Warden, (CPW)  
 26  
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 28

1 W. Cohen when he allowed the assessment of additional  
2 points to the petitioners security level on an Administrative  
3 Appeal. The actions of W. Cohen were unnecessary, unwise  
4 and retaliatory towards the plaintiff, sq.

## II

On the 26 July 2007, petitioner was issued an (RDR) for the specific Acts of, "Obstructing A Peace Officer In The Performance and Duty."

However on this date Correctional Officer C.M. Gonzales and his partner, (Unknown female officer, Jane Doe). Officer Gonzales tried to force me back into my cell and refused me yard activities for ~~not~~ not going or attending Substance Abuse Program, (SAP) that day. The officer was not going to allow me to the yard.

Petitioner's request to speak with the Sergeant that was working the Hall that day, (A. Bernal) as to why I was being confined to my cell without any disciplinary infractions, the Sergeant, (Sgt.) refused to speak with me about the issue.

Officer Gonzales had yard staff to escort me to a holding cage, with no bathroom access, for four (4) hours then I was released back to the yard without any other alterations.

Officer Gonzales, abused his authority to have his way to restrain me to my cell without an viable reason to restrain me to my cell. The actions of C.M. Gonzales were retaliatory and unnecessary. Wanton to force or give an order to ~~restrain~~ restrain the petitioner to his cell.

Sergeant A. Basual refused to discuss this issue with the petitioners in order to resolve the issue, therefore his actions condoned the actions of G.M. Gonzales thus allowing the officer to have his way, without being intervening in the matter.

Now when the petitioner had his hearing on the issue the (SHO) Lt. E. Stephens denied the petitioners to due process, ~~and~~ an fair and impartial Hearing.

Petitioner presented his documentation to the (SHO) and it was ignored, the (SHO) found me guilty of the charge and the charge does not support the requirements of the CCR t.t. 15 3315. Therefore Lt. E. Stephens denied the plaintiff to an fair and impartial Hearing. The Lt. ignored policies & regulations and retaliated against the petitioners in order to protect his fellow Staff members actions and accusations towards the Plaintiff. The actions of the Lt. were unnecessary-wanton, retaliatory to the plaintiff rights to a fair hearing the Lt. was bias towards the petitioners.

Furthermore, Facilitly Captain J. Sareli and Associate Warden, Chief Disciplinary Officer, (CDO) G.A. Ortiz had the authority to correct this RVR in accordance with the CCR, however this did not happen the RVR remained without change, thus condoning the actions of the SHO and

(q)

1 further retaliating against the petitioner to an fair  
 2 hearing resulting in further retaliation towards the  
 3 Plaintiff. The actions of J. Sareli and G.A. Ortiz were  
 4 Deliberately indifferent to plaintiff's rights, Administration  
 5 had the authority to correct the RVR and chose not too,  
 6 thus being <sup>being</sup> vindictive to the petitioner's rights to an fair  
 7 hearing by Lt. E. Stephens or inappropriate review  
 8 of the RVR as to whether the plaintiff's due ~~process~~ process  
 9 was performed entitling them fair hearing was given.  
 10

11  
 12 The charge of Obstructing A Peace officer in the Performance  
 13 and Duty does not support or meet the Criteria of the EER  
 14 for it to be classified as a Serious Rule Violation, petitioner  
 15 argued this point and the SHO ignored policy & procedures,  
 16 thus denying the plaintiff to present documentation in  
 17 order to defend against the charge. The SHO did what  
 18 he wanted to do in the Hearing and deliberately denied the  
 19 Plaintiff his right to defend himself and prepare an  
 20 adequate defense. The SHO was already bias towards  
 21 the petitioner, he was going to find me guilty no matter  
 22 what the Appellants said, thus retaliating against the  
 23 petitioner to protect his fellow staff members.  
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III

On 15 Jun 2007, petitioner was assigned to the (SAP) Substance Abuse Program, for fifty-nine days the petitioner did not attend this program due to a conflict with full time College correspondence course, litigations with Courts and having an job on the yard crew.

On the 1st of Aug 2007, sixty days after being assigned to the SAP program petitioner was issued his first CDE RCR for not reporting to work.

During the Plaintiff's Hearing the (SHO) Senior Hearing referee to hear or allow the appellant to defend or mount an adequate defense. It already been shown that the appellants due process rights have been violated by the (SHO) Lt. E. Stephens. The (SAP) program is an rehabilitation program so how does it become a job? Petitioner argued that point and the (SHO) ignored the appellant.

A.

Petitioner filed an Appeal that the appellant didn't fail to report to job assignment, that appeal was denied accordingly, log # CTF-S-07-03912, 2nd level review.

Petitioner attacked his initial Committee Classification Report, 128-6 CHROM, in which clearly shows that the

1 plaintiff stated that he did not want to participate with  
 2 this program, due to the fact of a conflict with a  
 3 Full-time College Program (Correspondence), litigations  
 4 with the Courts and having an job on the yard as well  
 5 is overbearing.  
 6

7 Furthermore at the petitioners initial committee  
 8 Review) the Assignment Lt was not present, in which  
 9 the ~~individual~~ individual is to be present to address issues  
 10 such as jobs or placement for job/work assignments, the  
 11 Petitioner was Not afforded that opportunity to  
 12 raise this issue with the Assignment Lt.

13 In the Appeal Petitioner tried to address the fact  
 14 that he didn't want to be in this program in which the  
 15 Oppellant was denied his right to say No to a treatment  
 16 Program. As it has been stated that the Petitioners reason  
 17 it not attending this program is due to a conflict with his  
 18 College studies and litigations with the Court.

20 B.  
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22 Petitioner tried to explain to the SHO that he didn't  
 23 want to be in this program and was ignored when he  
 24 presented his documentation to Lt. E Stephens. The SHO  
 25 rejected what I had to say and found me guilty of  
 26 the charge. The SHO actions were out of retaliation  
 27 and vindictiveness to punish the plaintiff for not going  
 28

1 to this program, regardless of any documentation  
 2 expressing the fact that I didn't want to participate  
 3 with this program.

4 [However the Institution/Administration knew of  
 5 my dissatisfaction to being placed into this program and  
 6 deliberately and intentionally place the Plaintiff in  
 7 this program for failure. They knew I was not going  
 8 to participate with this program or anything dealing  
 9 with this Program.]

11 Furthermore, to the Petitioners appeal, P.G. Dennis  
 12 CC II and C. Noll, Chief Deputy Warden condoned the actions  
 13 of the SHO, thus denying the petitioner to an fair Appeal  
 14 Process in which was denied. The actions of the CC II  
 15 and CDW were retaliatory and vindictive towards the  
 16 Petitioner, although the plaintiff has stated that he didn't  
 17 want to participate with this program in the first place.

18 In addition G.A. Ortiz, was deliberately-indifferent  
 19 to the Plaintiff's Const. Rights, he had prior knowledge  
 20 that the Plaintiff did not want to be placed in this program  
 21 and condoned the actions of the Facility Captain J. Sasey  
 22 and (SHO) Lt. E. Stephens. Ortiz never reviewed the  
 23 Plaintiff's Committee (Initial) Appeal and Disciplinary  
 24 Appeal. He failed to correct the issue and acknowledge  
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1 the fact the Petitioner stated he did not want to be  
2 in this program. Staff del.iberately ignored the Plaintiff's  
3 contentions and del.iberately ~~concealed~~ let the matter  
4 go on in which was deemed for failure.  
5

6 [In addition, at the petitioners initial Committee Classification  
7 on 11 Oct 2006 there were NO Assignment let the Classification  
8 Committee to afford the petitioner his right to be heard and  
9 contest the placement into this program - SAP.] In which  
10 denied the Plaintiff Due Process.  
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## IV

On the 3rd of Aug 2007, the Petitioner was in the  
 law library, (attending to one of his cases MS 3511,  
 reading documents to serve defendant), when Correctional  
 Officer's J. R. Salas and D. N. Garcia approached me  
 namely J. R. Salas in a very aggressive manner. He asked  
 me if I was to be in SAP, I replied, "Yes", Salas  
 then told or ordered me to get my SH T you're going  
 back to yourself. I told him that's fine let me staple  
 these documents and we can go. Officer Salas did not  
 want to hear that. At this point in time J. R. Salas  
 became belligerent and a total Jackass towards me,  
 Salas began to bump me with his chest, three times,  
 while headbutting me with his forehead into the side  
 of my right side of my face, while his chest (Salas)  
 was hitting my right arm. Salas intentionally was being  
 this aggressive with me to provoke me in assaulting him  
 or taking a defensive pose. I never came at this  
 Yellow Belly Salamander, although that I had an  
 Green light to do so, Salas gave me the full permission  
 to assault him, by his actions towards me. I never  
 posed threat to the officers, I NEVER RAISED MY

1 HANDS from my sides, even with the staples in my  
 2 hand, it never happened! ~~it~~ This is where D.N. Garcia  
 3 asked me to cuff up, in which I complied without and  
 4 I was taken to Ad.Sog. (lock-up) for doing nothing.

5 While in the hole, (lock-up, where I'm still), I was  
 6 issued an RVR for "Attempted Battery on A Peace Officer  
 7 with a weapon". Now when the petitioner had his Hearing  
 8 by Lt. E. Stephens (SHO), Petitioner was not afforded an  
 9 ~~a~~ fair and impartial Hearing by the SHO. Lt. Stephens  
 10 was clearly bias and discriminatory towards the petitioner,  
 11 (SHO) ignored policy, rules & regulations and petitioners  
 12 documentation that was presented in defense of the charges  
 13 to show the plaintiff's innocence, the (SHO) ignored petitioners  
 14 witness all in order to protect J.R. Salas in finding  
 15 the Plaintiff guilty of the RVR and deny the petitioners  
 16 a ~~a~~ fair hearing process.

17 In accordance with the institutions own produced  
 18 documents show that the plaintiff did nothing, No  
 19 Force applied, No Victim, No Code one initiated, No  
 20 Assault reported, Staff - (SHO) had No evidence to  
 21 Prove the Allegations.

22 Furthermore to this situation Lt. D.G. Metcalf  
 23 initiate the petitioners D-114 lock up order - then the  
 24 Lt. (Lieutenant) classified the petitioners RVR.

1 By the Lt. having initiated the lock-up order already  
2 biases his decision making process towards the petitioners  
3 RVR, in which amounts to Retaliation and/or vindictiveness  
4 to the Plaintiff.

5  
6 B  
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8 The actions of J.R. Salas were unnecessary - unreason,  
9 uncivil,ously and sadistically, indifferent-deliberate to the  
10 Plaintiff's ~~constit~~ Constitutional rights when Salas assaulted,  
11 aggressively grabbed the petitioners when their was no  
12 threat to him.

13  
14 The actions of D.H. Garcia were deliberately indifferent  
15 to the plaintiff's rights when he allowed J.R. Salas to  
16 bump assault and physically grab the plaintiff and  
17 did ~~not~~ nothing to stop Salas.

18  
19 The actions of D.G. McCalley were retaliatory towards  
20 the plaintiff when he was allowed to initiate an lock-up  
21 ~~order~~ than classify petitioners RVR in which  
22 ~~D~~ does not meet the protocol of the ECR 3315,  
23 to be serious Rule Violation.

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1 (6) Lieutenant E. Stephens was deliberately indifferent  
2 in his actions when he performed his duties as the  
3 (SHO). Lt. Stephens refused the petitioner the right  
4 to an fair and impartial Hearing, thus resulting in  
5 retaliation and vindictiveness measures being imposed  
6 by denying the Plaintiff due process to present evidence  
7 to defend against the charges. The (SHO) ignored policy  
8 and procedures and disallowed the plaintiff the right  
9 to have an fair hearing.  
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13 As to reffrence of all Rule Violation Reports,  
14 Petitioner claims all arguments in his Hearings to this  
15 petition.

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V

In Summary, out of all the Rule Violations that have been imposed upon the Plaintiff were done out of Retaliation and Vendictiveness. Petitioners was not afforded to a fair hearing of these RVR's by the SHO.

None of the RVR's that were issued to the Plaintiff met the protocol of the CCR 3315, or classified pursuant FDC CCR 3313, or had the necessary evidence to support the allegations or allow the plaintiff to present documentation or defend against the charges, thus denying the plaintiff due process to present his side of the story.

VI

### Conclusion

In contrast, with all of the RVR's they all extend ~~from~~ from the petitioners not attending the SAP program.

This Administration knew that the Petitioner Contested the fact that he did not want to be in or participate with this program and the Administration ignored the Plaintiff's contentions and placed him in this Program, with little regards to the Plaintiff's already committed obligations, for failure to participate with

1 their forced upon SAP program. Petition has filed and  
2 Appeals, Staff Complaints regarding these issues.  
3

4 I declare, under penalty of perjury that the foregoing  
5 is true and correct.  
6

7 Dated:  
8

9 Respectfully submitted,  
10

11 William Brown  
12

## Supplemental Page

## Argument

Pursuant to California Code of Regulations (CCR) Title 15  
the Rule Violation Reports - (RVR) that were issue to the Plaintiff  
does not meet protocol for Serious Rule Violations for the  
Specific Acts of, "Obstructing a Peace Officer In the  
Performance and Duty," "Attempted Battering on a Peace Officer  
with a Weapon - Conduct Which Could Lead To Violence".

Furthermore, Patients' didn't refuse to attend his work assignment, his job doesn't begin until 1200 hrs, SAP is an Rehabilitation Program, How does Rehabilitation Program become a job or work program?

Finally, Lieutenant D.N. McCall and D.G. Metcalf failed to properly classify these RVR's in accordance with Serious Rule Violations, Administrative Rule Violation requirements as defined by Classification of Rule Violation Reports.

Therefore by the actions of D.N. McCall and D.G. Metcalf was an abuse of authority and retaliatory in nature, when it came to the politicians liberally interest in classifying these RUR's.

Re ~~Re~~ D.N.Garcia the Classification of Documents.

Wm Br... -

21

## Prayers for Relief

Plaintiff prays for judgment for cost of suit, for such relief as fair, just, and equitable; and for Compensatory and Nominal damages in the amount of Ten Thousand, (\$10,000.00) Dollars as to each defendant, plus Rule violation, except to defendants J.R. Sales and D.N. Georgia, in the amount of Fifty-Thousand, (\$50,000.00) Dollars; as to Punitive and Stress related sufflagages in the amount of One-Hundred-Thousand, (\$100,000.00) Dollars, U.S. Currency, and insofar, any other relief the Court deems necessary and appropriate.

That all RUR's be dismissed, removed from C-File and that all credits be restored, forthwith. Also that any RUR that extends, or deals with the SAP program be dismissed, removed from C-File and all credits and forfeitures of time be restored.

Patented 19 Nov 2007

Respectfully submitted,



William Everett

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